IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

OP.No. 21487 of 2002(G)

PETITIONER:

K.THILAKAN, S/O. NARAYANAN,
AGED 53 YEARS, MADAVELIL HOUSE, CHERTHALA P.O.,
ALLEPPEY DISTRICT.

BY ADV. SRI.V.J.JOHN
SRI.M.B.ANISH BABU

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, ALLEPPEY.

2. THE TAHSILDAR,
TALUK OFFICE, CHERTHALA.

3. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
ALLEPPEY.

BY ADV. SRI.K.K.BABU
GOVERNMENT PLEADER
SRI.K.HARILAL, SC, KTWWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 21487/2002

ORDER ON CMP NO. 36787/2002 IN O.P.No. 21487/2002

DISMISSED.

11/06/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

ORDER ON I.A.No 2164/2007 IN O.P.No. 21487/2002

IMPLEADING DISMISSED ON ACCOUNT OF INORDINATE DELAY IN FILING IT.

11/06/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE DEMAND NOTICE DATED 04/05/2002 ISSUED BY THE SECOND RESPONDENT.

P2 : COPY OF THE NOTICE DATED 04/05/2002 UNDER SECTION 34 OF THE REVENUE RECOVERY ACT ISSUED by the 2ND RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P.No. 21487 of 2002

Dated, this the 11th day of June, 2007

J U D G M E N T

Petitioner is challenging recovery proceedings initiated for recovery of arrears of toddy workers' welfare fund. Petitioner's case is that he was Manager of the toddy shop and not the licensee, who according to the petitioner is the person liable as employer. However, petitioner did not chose to make the licensee as a party in the O.P., which was filed five years back. Besides this, the agreement, by which petitioner took over the management of the toddy shop, is also not produced in Court. In fact, a separate application is filed after five years of filing of this O.P. to implead the licensee was rejected by this Court as the same is found to be done without any bonafides. From the counter affidavit, it is seen that petitioner did not co-operate in the enquiry. The fact that petitioner was managing the toddy shop is admitted and is also proved from the contribution of welfare fund collected from the employees. In fact, when notice was sent to the petitioner by post, he refused to receive the same. Again it was served through messenger but petitioner refused to file a reply. All these go to show that petitioner was carrying on business under arrangement

with licensee and therefore was liable to pay contribution from the side of the employer along with contribution recovered from the employees' salary. Even if petitioner's case is that he was only the Manager is admitted then again petitioner cannot escape from liability, because he, as a Manager, was bound to pay contribution for the employer and for the employees after recovery from their wages. In view of the above circumstances, O.P. is filed without any bonafides and the same is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg